

PUERTO RICO HAZARDOUS WASTE FACILITY SITING PROVISIONS

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Relevant Statutes and Regulations:

- G *Puerto Rico Solid Waste Management Authority Act, Law of Puerto Rico Annotated, Title 12 -- Conservation, Chapter 127 -- Solid Waste Management Authority; Enacted by Laws of 1978, No. 70, Amended*
- G Puerto Rico Hazardous and Non-Hazardous Solid Wastes Regulations (Environmental Quality Board, Regulation for the Control of Hazardous and Non-Hazardous Solid Wastes; Adopted effective October 14, 1980, amended through October 4, 1993)

Commonwealth of Puerto Rico / EPA Region 2 Web Address

- G <http://www.epa.gov/region02/prlink.htm> (The given contact may help with questions on regulation)

Other Relevant State Documents:

- G None.

Puerto Rico Hazardous Waste Facility Siting Provisions

Affected Facilities:

- G** Final Disposal Site *[127.1304(d)]*
- G** Designated facility (Rule 102)
- G** Hazardous Solid Waste Disposal Facility (Rule 102)
- G** Hazardous Solid Waste Facility (Rule 102)
- G** Totally Enclosed Treatment Facility (Rule 102)

Definitions of Facility Types:

- G** “Final disposal site” means the site upon which structures, equipment, and other facilities are to be located, for the final disposal of solid waste through sanitary landfill or any other authorized site for disposal. *[127.1304(d)]*
- G** “Designated facility” means a hazardous waste treatment, storage or disposal facility which has received an Environmental Quality Board or EPA permit. (Rule 102)
- G** A “hazardous solid waste disposal facility” is a solid waste disposal facility or part thereof at which hazardous solid waste is intentionally placed into or on any land where the waste will remain after the closure of the facility. (Rule 102)
- G** A “hazardous solid waste facility” is any solid waste facility for the treatment, storage, and final disposal of hazardous solid waste, including but not limited to facilities such as:
 - C** Hazardous solid waste landfills, which are hazardous solid waste disposal facilities operated in accordance with the regulations, and which are not land treatment facilities, surface impoundments, or an injection wells;
 - C** Chemical fixation process facilities;
 - C** Land treatment facilities, which are any solid waste facilities or part thereof at which solid waste is applied onto or incorporated into the soil. Such facilities are solid waste disposal facilities if the waste remains there after closure;
 - C** Incinerators (“on-site” and central plants);
 - C** Thermal treatment;
 - C** Surface impoundments;
 - C** Resource recovery facilities;
 - C** Chemical, physical, and biological “treatment” facilities; and
 - C** Tanks. (Rule 102)

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- G** A “totally enclosed treatment facility” is a facility for the treatment of hazardous solid waste which is directly connected to an industrial process and which is constructed and operated in a manner which prevents the release of any hazardous solid waste or any constituent thereof into the environment during treatment. (Rule 102)

Puerto Rico Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Environmental Quality Board (EQB)	PPA	Rule 102	<p>The Environmental Quality Board (EQB) of the Commonwealth of Puerto Rico.</p> <p><i>The statutes list the EQB as the administering agency for the Solid Waste Management Authority Act. The Act creates the Solid Waste Management Authority and Governing Board. The regulations, however, refer to the “Board” as the EQB and not the Authority Governing Board. Since the Authority Governing Board is by statute required to cooperate with the EQB, it is clear that these are two distinct entities. It is unclear, however, what the statutory authority for the EQB involves since it is not defined in the Solid Waste Management Authority Act. The Solid Waste Management Authority appears to be able to own and construct facilities and also set regulations for anyone operating those facilities. The EQB appears to be the overall regulatory entity for hazardous waste management.</i></p>

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Environmental Quality Board - responsibilities	PPA	Rule I-912(C)(1)	Within 60 days after receiving an application, the EQB notifies the applicant in writing about the completeness of such application.
	PA	Rule 210(A), (B), & (C)	<p>The EQB will hold a public hearing on any permit application when requested to do so by any person with an interest in the permit, or when it determines that a public hearing would aid it in evaluating the permit application. The EQB will give adequate public notice before holding a public hearing.</p> <p>All public notices shall be published at least 45 days prior to any final determination by the EQB regarding the subject matter of the notice.</p> <p>After holding a public hearing, the EQB issues a resolution describing its final decision. Within 45 days of the EQB's final decision, copies of this resolution are mailed to all the participants and made available to the public.</p>
	PDP	Rule I-912(C)(2)	Within 180 days after the receipt of a complete application for a permit, the EQB grants or denies the application, unless extensions have been granted for the period of public comment or for the conduct of public hearings.
Environmental Quality Board - responsibilities (continued)	PA	Rule I-912(E)	<p>Once an application is complete, the EQB tentatively decides whether to prepare a draft permit or deny the application.</p> <p>A notice of intent to deny is issued or a draft permit is prepared; both require public notice and a 45 day comment period. Notice is then given for the opportunity for a public hearing, final decision is made, and a response to comments is provided.</p>

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Solid Waste Authority (Authority)-composition	PPA	<p><i>[127.1302]</i></p> <p><i>[127.1307(b)]</i></p>	<p>A Commonwealth public corporation and government instrumentality, which shall be known as the Puerto Rico Solid Waste Authority (Authority), is created. The powers of the Authority are exercised by a Governing Board (Board) composed of:</p> <ul style="list-style-type: none"> C the Director of the Puerto Rico Energy Office (ex-officio), C the Executive Director of the Puerto Rico Electric Power Authority (ex-officio), C the Executive Director of the Aqueduct and Sewer Authority (ex-officio), C the Administrator of the Municipal Services Administration (ex-officio), C three mayors, and C four representatives of the private sector appointed by the Governor with the advice and consent of the Senate. <p>The Governor designates the Chairman of the Board from the members. Six members shall constitute a quorum, and the affirmative vote of the Board members present shall be necessary for all decision.</p> <p>No person having a direct or indirect economic interest in any private enterprise engaged in business with the Authority, or in any business whose principal activities are related to the acquisition, building or design of solid waste facilities, storage and final disposal thereof, shall hold office as member, official, employee or agent of the Authority.</p> <p>When issues concerning a municipality are being discussed, the mayor of such municipality who is a member of the Board shall not participate in the discussion before the Board, and the municipality shall be represented by some person other than the mayor.</p>

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Solid Waste Authority-duties	PPA	<i>[127.1305]</i> <i>[127.1035(h)]</i> <i>[127.1035(y)]</i> <i>[127.1035(z)]</i> <i>[127.1035(z)(bb)]</i> <i>[127.1035(gg)]</i> <i>[127.1311]</i>	<p>The Authority has the following duties related to siting:</p> <ul style="list-style-type: none"> C provide for and operate the site and facilities for the processing, recovery, final disposal or storage of toxic or hazardous solid waste; C establish by regulations the requirements that in its judgment are necessary for the control of the public or private collection, transshipment, processing, recovery and final solid waste disposal operations, including toxic and hazardous waste; C adopt rules and regulations to establish a permit and licensing mechanism to control the activities for the collection, transshipment, processing and recovery of solid waste, including toxic and hazardous waste; C adopt rules and regulations and issue orders to establish the operational norms in harmony with the Integral Plan for Puerto Rico for the recovery, use, storage, collection, sorting, compacting, processing and final disposal of solid waste, including toxic and hazardous waste; and C hold public hearings. <p>Every construction contract must be made by announcements for competitive bids published within a reasonable period of time, prior to the date for opening the bidding forms, in order for the Authority to insure adequate public notice and attendance.</p>
Solid Waste Authority-coordination	PPA	<i>[127.1306]</i> Rule I-902(A)	<p>The Authority exercises and fulfills its responsibilities in coordination and in harmony with the Environmental Quality Board (EQB) and the Planning Board for the benefit and best interests of the Commonwealth of Puerto Rico.</p> <p>The Authority must obtain a permit from the Environmental Quality Board to establish and operate solid waste facilities.</p>
Solid Waste Authority's Executive Director - responsibilities	PPA	<i>[127.1303]</i>	<p>The executive functions of the Authority are performed by an Executive Director who is appointed by the Governing Board for a term of six years, and holds office at its will until his successor is designated.</p> <p>The Board may delegate to the Executive Director any of its powers, except the Authority's power to regulate and formulate public policy.</p>

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THE INTERAGENCY COORDINATING COUNCIL			
No provisions found.			
INDEPENDENT SITING BOARD			
No provisions found.			

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LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW/INVOLVEMENT			
No provisions found.			
OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
Planning Board of the Commonwealth of Puerto Rico	PA	Rule I-902(E)(2)	No permit to construct a new solid waste facility is granted unless the applicant shows to the satisfaction of the EQB that the applicant holds a valid resolution from the Planning Board of the Commonwealth of Puerto Rico approving the location.
Puerto Rico Health Department	PA	Rule I-902(E)(4)	No permit to construct a new solid waste facility is granted unless the EQB is satisfied that the applicant holds a certification from the Puerto Rico Health Department that the new or modified construction does not pose a public health or safety hazard.
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
General prohibitions	PPA	Part II, Rule 202 Part III, Rule 301	The rules in Parts II & III that refer to solid waste apply equally to solid waste that is hazardous. This includes solid waste facilities.
Coordination with non-hazardous solid waste activities	PPA	Rule 402(E)	If the facility, collection service, or generating activity also handles hazardous solid waste, the non-hazardous solid waste operating plan will explain the manner in which hazardous solid waste operations are carried out or coordinated with non-hazardous solid waste operations.

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IMPACT OF FACILITY ON LOCAL LAND USE			
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PUBLIC PARTICIPATION			
The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)			
NOTIFICATION			
Notification of acceptance of construction bid	PPA	<i>[127.1311]</i>	In order for the Authority to insure adequate public notice and attendance, all construction and service contracts, including contracts for the construction of hazardous waste facilities, must be awarded by the Authority after publishing announcements soliciting for competitive bids.
Notification of completeness of application for permit	PPA	Rule I-912(C)(1)	Within 60 days after receiving an application, the EQB notifies the applicant in writing about the completeness of such application.
Notification of public hearing	PA	Rule 210(A)	The EQB will not hold a public hearing without giving adequate public notice. If it decides to hold a public hearing on a matter for which a notice has already been published, but for which no hearing was announced, it will publish another public notice to announce the hearing.
Notification of public hearing on draft permit	PA	Rule I-912(E)(5) Rule I-912(H)(2)	The EQB gives notice of the opportunity for a public hearing regarding a draft permit. The notice allows for a 45-day comment period.
Notification of resolution on final decision	PA	Rule 210(A), (B) & (C)	After holding a public hearing, the EQB will issue a resolution describing its final decision. Within 45 days of the EQB's final decision, copies of this resolution will be mailed to all the participants and made available to the public.

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Public notice - requirements	PA	Rule 210(B) Rule I-912(H)(4)	<p>All public notices shall be published at least 45 days prior to any final determination by the EQB regarding the subject matter of the notice, unless the EQB determines that the public interest requires it to make a final determination in a shorter period of time.</p> <p>Public notices will be published in at least two newspapers of general circulation in Puerto Rico and, when given in response to an application, will be mailed to the applicant. The EQB may also further publish any notice in any manner it deems appropriate.</p> <p>Public notices contain the following information:</p> <ul style="list-style-type: none"> C name and address of the office processing the permit action, C name and address of the permittee or permit applicant, C a brief description of the business conducted at the proposed facility, C name, address, and telephone number of a person from whom interested persons may obtain further information, C a brief description of the comment procedures and the time and place of any hearing held, including a statement of procedures to request a hearing, and C the location of background documents and the times at which they are available to the public for inspection.
Notice of intent to deny	PA	Rule I-912(E)(2) Rule I-912(H)(2)	A notice of intent to deny is issued if the EQB tentatively decides to deny a permit application. The notice of intent to deny is a type of draft permit, and follows the same procedures as a draft permit. The notice allows for a 45-day comment period.
PUBLIC MEETING			
No provisions found.			

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PUBLIC HEARINGS			
Public hearing on permit application	PA	<p>Rule 210(A)</p> <p>Rule I-912(J)</p>	<p>The EQB will hold a public hearing on any permit application when requested to do so by any person with an interest in the permit or when it determines that a public hearing would aid it in evaluating the permit application.</p> <p>The EQB holds a public hearing whenever it receives written opposition to a draft copy of the permit and the request is made within 44 days of the public notice of the draft permit. Whenever possible, the hearing is held at a location which is conveniently near the closest populated center to the proposed facility.</p> <p>Whenever a public hearing is held, the EQB designates a Presiding Officer for the hearing who is responsible for its scheduling and orderly conduct.</p> <p>Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements. The public comment period is automatically extended to the close of any public hearing.</p> <p>A tape recording or written transcript of the hearing is made available to the public.</p>
Public comments and requests for public hearings	PA	Rule I-912(I)	During the public comment period, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing is made in writing and states the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered in a response to comments document.
ADJUDICATORY HEARINGS			
No provisions found.			
OTHER			
No provisions found.			

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SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SOIL AND WATER			
General prohibition against contamination of ground water	PA	Rule 305	No person shall cause or permit the contamination of an existing or potential underground drinking water source.
Location restrictions for the protection of ground water	PA	Rule I-807(C)	All hazardous solid waste facilities must be located, designed, operated, constructed, and maintained to prevent the hazardous waste, or its constituents, from causing or contributing to ground water pollution.
Prohibitions regarding discharges to marine or surface waters	PA	Rule 304(C)	Puerto Rico prohibits spills or discharges of pollutants from a hazardous waste facility into marine or surface waters.
Prohibitions against surface or subsurface discharges into waters	PA	Rule I-807(B)(1)	All hazardous solid waste facilities must be located, designed, constructed, and operated to prevent any surface or subsurface discharge from the facility into the waters of the Commonwealth of Puerto Rico.
SEISMIC CONSIDERATIONS			
Placement of a facility over a fault	PA	Rule II-802(H)(1)	A new facility where treatment, storage, or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time. This provision is equivalent to 40 CFR 264.18(a).
FLOODING AND EROSION			
Prohibition against floodplain siting	PA	Rule 304(A)	No person shall cause or permit the collection, storage, treatment, or disposal of solid or hazardous waste in floodplains where it could restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste, so as to pose a hazard to human health, wildlife, or land or water resources.

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Prohibition against 100-year floodplain siting	PA	Rule I-803(C)(1) Rule II-802(H)(2)	No new hazardous solid waste facility shall be located in a 100-year floodplain (except incinerators, storage facilities, and land treatment facilities (landfarms) if it can be demonstrated that such facilities are designed, constructed, operated, and maintained so that they will not be inundated by the 100-year flood).
Prohibitions regarding aquifer recharge zones	PA	Rule I-803(C)(2)	No new hazardous solid waste facility shall be located in an aquifer recharge zone.
AIR			
Location restrictions to prevent air pollution	PA	Rule I-807(D)(1)	All hazardous solid waste facilities must be located, designed, constructed, operated and maintained to prevent the facility's air emissions from violating the EQB's Regulation for the Control of Atmospheric Pollution, or violations of established airborne containment levels.
DISTANCE LIMITATIONS/BUFFER ZONES			
Placement of a facility over a fault	PA	Rule II-802(H)(1)	A new facility where treatment, storage, or disposal of hazardous waste will be conducted must not be located within 61 meters (200 feet) of a fault which has had displacement in Holocene time. This provision is equivalent to 40 CFR 264.18(a).
OTHER HUMAN HEALTH CONSIDERATIONS			
Prohibitions regarding human health and the environment	PPA	Rule I-803(C)(3)	No new hazardous solid waste facility will be located in an area where the active portion of the facility would not always be located at a sufficient distance from the boundary of the facility so as to not be a nuisance or hazard to human health or the environment.
Protections against disease vectors	PPA	Rule 304(E)	Puerto Rico does not allow the operation of a hazardous solid waste facility unless the on-site population of disease vectors is controlled through the periodic application of cover material or through other techniques to protect public health.
Puerto Rico Health Department	PA	Rule I-902(E)(4)	No permit to construct a new solid waste facility is granted unless the EQB is satisfied that the applicant holds a certification from the Puerto Rico Health Department that the new or modified construction does not pose a public health or safety hazard.

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ENVIRONMENTALLY SENSITIVE AREAS			
No provisions found.			
Endangered Species			
Prohibition regarding endangered species	PPA	Rule 304(B)	No person will cause or permit the collection, storage, treatment, or disposal of solid or hazardous waste in a manner that could cause or contribute to the destruction or taking of any endangered or threatened species of plants, fish, birds, or wildlife.
Critical Habitats			
Prohibition regarding endangered species habitat	PPA	Rule 304(B)	No person shall cause or permit the collection, storage, treatment, or disposal of solid or hazardous waste in a manner that could cause the destruction or adverse modification of the habitat of any endangered or threatened species of plants, fish, birds, or wildlife.
Wetlands			
No provisions found.			
Wild, Scenic or Recreational Areas			
No provisions found.			
Approved Farmland Preservation Areas			
No provisions found.			
Other			
No provisions found.			

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OTHER RESTRICTIONS			
Salt domes, salt bed formations, underground mines and caves	PA	Rule I-803(C)(4) Rule II-802(H)(3)	The placement of any hazardous waste in a salt dome, salt bed formation, underground mine or cave is prohibited.
Provision against noise pollution	PA	Rule I-807(E)	All hazardous waste facilities must be located, designed, constructed, operated and maintained in a manner which prevents excessive noise.

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ENVIRONMENTAL JUSTICE CONSIDERATIONS			
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ECONOMIC CRITERIA			
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OTHER CRITERIA			
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